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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Judgment: 02nd November, 2017*

+ **W.P.(C) 10288/2015**

KHEMCHAND AND ORS. Petitioners

Through: Mr.Prateek Kohli, Ms.Sumi Anand
and Ms.Richa Oberoi, Advocates

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr.Chiranjeev Kumar and Mr.Mukesh
Sachdeva, Advts. for R-1/UOI.
Mr.Siddharth Panda, Adv. for
L&B/LAC
Mr.Arun Birbal, Mr.Sanjay Singh and
Mr.Rohan Mehra, Advocates for
DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V. KAMESWAR RAO

G.S.SISTANI, J. (ORAL)

1. Mr.Panda submits that the counter affidavit has been filed on behalf of the LAC in Registry vide diary no.263091 dated 26.05.2017 but the same is not on record. An additional copy of the counter affidavit has been handed over in court. Registry is directed to trace the counter affidavit and place the same on record.
2. With the consent of counsels for the parties, the writ petition is set down for final hearing and disposal.
3. In the present writ petition the petitioner seeks a declaration that the acquisition proceedings qua the land of the petitioner situated in Khasra

No.247 (16-10) and 248 (4-10) total admeasuring 21 bighas situated in the revenue estate of Village Jasola, New Delhi stands lapsed in view of the fact that neither the possession was taken over nor any compensation has been paid. Counsel for the petitioner submits that notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 were issued on 06.04.1964 & 07.12.1966 respectively and thereafter an award No.6D/Suppl./86-87 dated 19.09.1986 was made. The counsel submits that in view of the fact that neither possession was taken over nor compensation was paid, the case of the petitioner would be fully covered by the decision rendered in ***Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors.***, 2014 3 SCC 183.

4. Mr.Panda, learned counsel for LAC while relying on para 7 of the counter affidavit submits that the possession of the aforesaid land could not be taken over due to the area being built up and as per Naksha Mumtzin compensation was sent to Revenue Deposit (RD). Counsel for the DDA has also filed a counter affidavit on similar lines.
5. Section 24 of the New Act came up for interpretation before the Supreme Court in the matter of ***Pune Municipal Corporation*** (*supra*).

In the this judgment, the Court held as under:-

“Under Section 24(2) land acquisition proceedings initiated under the 1894 Act, by legal fiction, are deemed to have lapsed where award has been made five years or more prior to the commencement of 2013 Act and possession of the land is not taken or compensation has not been paid. The legal fiction under Section 24(2) comes into operation as soon as conditions stated therein are satisfied. The applicability of Section 6 of the General Clauses Act being subject to Section 24(2), there is no merit in the contention of the Corporation.”

6. In another case of ***Bharat Kumar Vs. State of Haryana and Ors.***, 2014 (3) SCALE 393, the Supreme Court held as under :

“Sub-Section (2) of Section 24 commences with a non-obstante clause. It is a beneficial provision. In view of this provision, if the physical possession of the land has not been taken by the Acquiring Authority though the award is passed and if the compensation has not been paid to the land owners or has not been deposited before the appropriate forum, the proceedings initiated under the Act, 1894 is deemed to have been lapsed.”

7. Thereafter the interpretation of Section 24 of the New Act came up before three Judges Bench of the Supreme Court in the case of ***Union of India and Ors v. Shiv Raj and Ors.***, (2014) 6 SCC 564 wherein after dealing all the aforesaid judgments and arguments, the Court noted that since the possession has not been taken over till date, though the compensation has been deposited with the Revenue Department, the same cannot be termed as deemed payment as has been held in the case of ***Pune Municipal Corporation*** (*supra*), the benefit of Section 24 is to be given to the land owners.
8. This Court in a series of writ petitions including Writ Petition (C) No.2806/2004 and 2807-2934/2004 titled as ***Jagjit Singh and Ors. Vs. Union of India and Ors.*** in the judgment delivered on 27.05.2014 has been pleased to hold that in view of the deeming provisions of Section 24(2) of the New Act, the acquisition proceedings in the writ petition shall be deemed to have lapsed in respect of the petitioner's land.
9. For the reasons stated above, the petitioner is entitled to a declaration that the acquisition proceedings initiated under the Land Acquisition

Act, 1894 in respect of the subject land are deemed to have lapsed. It is declared accordingly. The writ petition is allowed. No order as to cost.

C.M.25617/2015 (stay)

10. The interim order dated 04.11.2015 is confirmed.
11. The application stands disposed of.

G.S.SISTANI, J

V. KAMESWAR RAO, J

NOVEMBER 02, 2017

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